IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VMWARE LLC,   )
)
                 Plaintiff,   )
)
         v.   )   C.A. No. 25-353 (RGA)
)
SIEMENS AG, SIEMENS CORPORATION,   )
SIEMENS INDUSTRY SOFTWARE, INC.,   )
SIEMENS MEDICAL SOLUTIONS USA,   )
INC., SIEMENS HEALTHCARE   )
DIAGNOSTICS, INC., SIEMENS   )
MOBILITY, INC., and PETNET   )
SOLUTIONS, INC.,   )
)
                 Defendants.   )

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE THE DECLARATION
OF JAMES JOHN LOMEO AND SUPPORTING EXHIBITS UNDER SEAL
IN SUPPORT OF THEIR MOTION TO DISMISS
PURSUANT TO THE DOCTRINE OF _FORUM NON CONVENIENS_**

Defendants respectfully move pursuant to Federal Rule of Civil Procedure 5.2 and the

Local Rules of Civil Practice and Procedure of the United States District Court for the District of

Delaware, for an order permitting them to file the Declaration of James John Lomeo and supporting

exhibits to Defendants' Opening Brief in Support of their Motion to Dismiss Pursuant to the

Doctrine of _Forum Non Conveniens_ ("Brief") under seal. The grounds for this Motion are set forth

below.

        1.   This Court has the "inherent equitable power to grant confidentiality orders."

Pansy v. Borough of Stroudsburg, 23 F.3d 772, 785-86 (3d Cir. 1994). Although there is a

"presumption in favor of public accessibility," the Court has authority to seal documents "when

justice so requires," provided the party requesting sealing demonstrates that the "interest in secrecy

outweighs the presumption" of access. _In re Motions for Access of Garlock Sealing Techs. LLC_,

488 B.R. 281, 299-300 (D. Del. 2013) (quoting _LEAP Sys., Inc. v. MoneyTrax, Inc._, 638 F.3d 216,

221-22 (3d Cir. 2011)). Thus, "courts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant's competitive standing." *Littlejohn v. Bic Corp.*, 851 F.2d 673, 678 (3d Cir. 1988) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)); *see also* Fed. R. Civ. P. 26(c)(l)(G) (identifying "confidential . . . commercial information" as one category of information that can be protected via court order); *see also Mylan Inc. v. SmithKline Beecham Corp.*, 723 F.3d 413, 415 n.3 (3d Cir. 2013) (finding good cause to seal documents "to protect the parties' confidential proprietary business and competitive interests").

2.   The Enterprise License Agreement Order Form, the October 8th Letter from Dr. Julian A. Sanner, and the VMware International Unlimited Company invoice reference the value of VMware offerings and the prices at which Siemens AG was provided with VMware products and Support Services, which are not publicly available. The invoice also contains personal information. The parties have taken measures to keep this information confidential. Public disclosure of this commercially sensitive information would cause significant harm as it could be used by competitors to compromise the parties' standings in negotiations for licenses for similar offerings. There is not yet a protective order entered that would expressly permit the filing of papers under seal.

3.   In accordance with D. Del. LR 5.1.3 and the District of Delaware Administrative Procedures Governing Filing and Service by Electronic Means Section (G)(1), Defendants will submit redacted versions within seven days after filing.

WHEREFORE, Defendants respectfully request that the Court grant this motion and enter the attached [Proposed] Order.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Karen Jacobs

Karen Jacobs (#2881)
Cameron P. Clark (#6647)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
kjacobs@morrisnichols.com
cclark@morrisnichols.com

OF COUNSEL:

Gregg F. LoCascio, P.C.
Michael A. Pearson, Jr.
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 389-5000

James John Lomeo
KIRKLAND & ELLIS LLP
401 Congress Avenue
Suite 2500
Austin, TX 78701
(512) 678-9050

June 10, 2025

Attorneys for Defendants Siemens AG, Siemens Corporation, Siemens Industry Software Inc., Siemens Medical Solutions USA, Inc., Siemens Healthcare Diagnostics Inc., Siemens Mobility, Inc., and PETNET Solutions, Inc.

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SOLUTIONS, INC.,.,   )
)
                 Defendants.   )

[PROPOSED] ORDER GRANTING DEFENDANTS'
UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL

This _____ day of _____, 2025, the Court having considered Defendants'

Unopposed Motion for Leave to File Under Seal, and the Court having determined good cause

exists for the requested sealing, now therefore:

IT IS HEREBY ORDERED that:

1.   Defendants' Unopposed Motion for Leave to File Under Seal is GRANTED; and

2.   Defendants shall file redacted versions of the Declaration of James John Lomeo

and accompanying exhibits to the Opening Brief in support of their Motion to Dismiss Pursuant to

the Doctrine of *Forum Non Conveniens* within seven days of the entry of this Order.

                                              _____
                                              United States District Judge

<u>**CERTIFICATE OF SERVICE**</u>

I hereby certify that on June 10, 2025, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on June 10, 2025, upon the following in the manner indicated:

Paul J. Loughman, Esquire Robert M. Vrana, Esquire Colin A. Keith, Esquire YOUNG CONAWAY STARGATT & TAYLOR, LLP Rodney Square 1000 North King Street Wilmington, DE 19801 (302) 571-6600 *Attorneys for Plaintiff*	*VIA ELECTRONIC MAIL*
David H. Herrington, Esquire CLEARY GOTTLIEB STEEN & HAMILTON LLP One Liberty Plaza New York, NY 10006 (212) 225-2000 *Attorneys for Plaintiff*	*VIA ELECTRONIC MAIL*
Angela L. Dunning, Esquire Ye Eun Charlotte Chun, Esquire CLEARY GOTTLIEB STEEN & HAMILTON LLP 1841 Page Mill Road, Suite 250 Palo Alto, California 94304 (650) 815-4100 *Attorneys for Plaintiff*	*VIA ELECTRONIC MAIL*

/s/ Karen Jacobs

Karen Jacobs (#2881)